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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/030,761	04/18/2002	Peter Wuelknitz	H 3597 PCT/US	2045

7590 11/20/2003

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EXAMINER

LAM, CATHY FONG FONG

ART UNIT	PAPER NUMBER
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1775

DATE MAILED: 11/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/030,761

Applicant(s)

WUELKNITZ ET AL.

Examiner

Cathy Lam

Art Unit

1775

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 13-21 and 23-32 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3. 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

1. Claims 30, 31, 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 30, 31 and 32, the claim language is indefinite and structurally confusing, particularly the last four lines are unclear.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 13-21 and 23-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trojanowski et al (US 6322152) or Brant (US 3295156) in view of Newman (US 3188673).

Trojanowski discloses a toothbrush comprised of a brush head (1), a handle (2) and bristles.

The bristles comprised of outer rows (6,10) and inner rows (7-9) (Fig. 3 & col 4 L 15-19). The bristles of the tufts of the inner rows are shorter than the bristles of the outer rows. The bristles of the tufts of the inner rows are polished on their free ends (or rounded) and the bristles of the tufts of the outer rows are feathered (or split ends) (col 1 L 59-62).

Brant also discloses a toothbrush comprised of a brush head and a handle.

Bristles (10) are connected to the head.

The bristles are comprised of flagged bristles (12) (or split ends) and bristles (14) having intact free ends (col 1 L 38-41). The intact bristles (14) are shorter than the flagged bristles (12) (col 1 L 42-43).

The short intact bristles (14) are placed in an inner area of the brush head, wherein the flagged bristles (12) are placed on the border of the brush head (col 1 L 66-70).

Both Trojanowski and Brant teach a tooth brush having two different tufts of bristles, the ones on the border has bristles longer and have split ends and the bristles in the center of the brush head are shorter and has intact ends. The prior art however are silent about the wavy bristles in the center of brush head.

Newman teaches a tooth brush having bristles that have a surface contour (or wavy profile).

In view of the prior art teachings, one skill in the art would modify Trojanowski and Brant's inner bristles to include a surface contour because it gives a more effective cleaning of the teeth.

Regarding to the distance between the first set of bristle bunches and the second set of bristle bunches, the split up distance from the ends, etc. The examiner takes the position that these are obvious variants, one skill in the art would easily modify upon his desire.

Allowable Subject Matter

4. Claim 22 is objected to as being dependent upon a rejected base claim, but would be allowable if incorporate into independent claim.
5. The following is a statement of reasons for the indication of allowable subject matter: Newman discloses the difference of the long bristles and the short bristles being 0.011" to 0.008" and 0.013" to 0.10" (col 2 L 60-65), their differences are in 0.025 mm which is much less than 1mm.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cathy Lam whose telephone number is (703) 308-2418. The examiner can normally be reached on 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones can be reached on (703) 308-3822. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9604.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.


Cathy Lam
Primary Examiner
Art Unit 1775

cfl
November 14, 2003